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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,452	02/20/2004	Fred Lawrence Heldoorn	HELD:1000	7783
34725	7590	06/05/2008		
CHALKER FLORES, LLP			EXAMINER	
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DALLAS, TX 75234			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			06/05/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/783,452

Applicant(s)

HELDOORN, FRED LAWRENCE

Examiner

PHU H. NGUYEN

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 14, 16-20 and 22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791

Continuation of 3. NOTE: The newly issues raised by the proposed amendments includes features: plastic takeout holder base having a front edge having an inner wall that forms an insert opening in the front edge that extends toward a rear edge, a tab aperture comprises an elongated female depression that mates to elongated male extension, the yoke is configured to fit a takeout holder machine used to remove hot bottles from a bottle forming mold and the plastic takeout holder jaw provides a longer life expectancy and is stable at temperature at which the takeout holder machine removes the hot bottles from the bottle forming mold, wedge shaped semi-circular insert, a concave wedge shaped nonmetallic insert adapted to fit frictionally the wedge shaped groove wherein the concave wedge shaped nonmetallic insert is stable at temperatures at which hot bottles are removed from a bottle forming mold.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant requested for reconsideration of the finality of the rejection of the last Office Action filed 3/18/2008 and that the finality of that action be withdrawn because the Applicant has not been allowed to address new grounds of rejection for many of the claims. However, the Applicant's amendment (filed 12/17/2007) necessitated the new ground(s) of rejection presented in the Office Action filed 3/18/2008, accordingly that Action is made final.

In response to Applicant argument that the term "stable at temperature above 260 degree C" is fully supported in the application as filed and/or the provisional application and that the skilled artisan knows the temperature achieved in the manufacturing process in which the present invention is used is about 260 degree C (range of 232-288) as such the present invention must be able to withstand those temperature, the Examiner is not able to locate the disclosure of the claimed term "stable at temperature above 260 degree C" nor the stated range of 232-288 (assuming the Applicant meant degree C as a unit) in the specification of the application as filed and/or the provisional application. If the applicant believes the description was provided in the specification, the applicant is requested to point out the column and line number in the specification that contains the description.

Applicant argues regarding claim 3, that Lloyd teaches against the use of plastics because they cannot withstand the temperature and Dorey teaches against the use of ceramic materials because they are brittle and easily chipped. Furthermore, given the teachings of Dorey, Denney and Lloyd the skilled artisan would have no indication that the combination would work. However, as discussed above for claim 1, Dorey teaches the use of thermosetting resin that is a type of plastic that can withstand high temperature for the takeout holder to perform. Also discussed above for claim 3, Lloyd discloses a solution for the brittleness of graphite by providing pads composed of a relatively high strength ceramic and having tongue-in-groove and/or roughened glass-contact surfaces. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the combination of Dorey, Denney, Recker and Lloyd would work since the plastic of Dorey can withstand the high temperature and the high strength ceramic of Lloyd is a solution for the brittleness problem.

Applicant also argues about the newly added feature of a wedge shaped semi circular nonmetallic insert adapted to fit frictionally the pocket, however this proposed amendment raises new issues that would require further consideration and/or search.

Furthermore, the proposed amended claims raise new issues that would require further consideration and/or search.